

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CORY H., LATRICIA H., ANDREW B., and)
JASON E., by their parents and next friends,)
SHIRLEY P., BEVERLY H., SHARON B., and)
STEVEN E., on their own behalf and on behalf of a)
class of similarly situated persons,)

Plaintiffs,)

v.)

THE BOARD OF EDUCATION OF THE CITY)
OF CHICAGO, PAUL G. VALLAS, Chief)
Executive Officer of the Chicago Public Schools,)
THE ILLINOIS STATE BOARD OF)
EDUCATION, and GLENN W. McGEE,)
Illinois Superintendent of Education,)

Defendants.)

No. 92 C 3409

Judge Robert W. Gettleman

ORDER

Following a trial in October 1997, on February 19, 1998, this court issued a memorandum opinion and order, Corey H. v. Board of Education, 995 F. Supp. 900 (N.D. Ill. 1998), which held, in part, that the segregated system of educating children with disabilities in Chicago by categories of their disabilities violated the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 et seq. The court ordered the Illinois State Board of Education ("ISBE") to act "with all deliberate speed" to correct the violations found. The court also found that the certification of teachers by categorical labels associated with particular disabilities was contrary to the mandate of the IDEA to educate children with disabilities in the least restrictive environment ("LRE"). The court ordered ISBE "to ensure that teacher certification in Illinois complies with rather than contradicts the LRE mandate."

In December 1998, the court held an evidentiary hearing on remedies. Thereafter, the parties entered into a Settlement Agreement, which was approved by the court at a fairness hearing on June 18, 1999. In the Settlement Agreement, ISBE agreed to propose by January 1, 2000, a special education teacher certification system which complied with the court's order.

During 1999, the ISBE sought diverse perspectives on the redesign of the certification system, including soliciting on a statewide basis comments and questions from parents, teachers, school officials, professional organizations, and advocates. During the last six months of 1999, the ISBE's efforts included the formation of advisory panels composed of diverse individuals to develop recommendations for a new certification system. The ISBE published a report on the advisory panels' recommendations and held hearings throughout the state regarding those recommendations. The ISBE also sought consultation from the State Teacher Certification Board and with a "Blue Ribbon Committee," which included representatives of professional organizations and other educators, the Illinois Advisory Council on the Education of Children with Disabilities, teacher educators, and parents. At the June 1999 fairness hearing on the Settlement Agreement, it was clear that adopting a new special education teacher certification system would be controversial.

The ISBE transmitted its Final Certification Proposal to the court on March 17, 2000. Pursuant to Paragraph 29(d) of the Settlement Agreement, if a party objects to any ISBE Final Certification Proposal, that party may petition the court-appointed Monitor within 30 days of receipt of the final certification proposal. On April 17, 2000, the plaintiffs submitted such a petition to the Monitor, objecting to many aspects of the ISBE's March 17 Final Certification Proposal. At the heart of the plaintiffs' objections was the concern that the ISBE proposal was so

general that it could be implemented in ways that exactly replicate the existing categorical certification system.

In a decision dated June 22, 2000, the Monitor accepted the ISBE's basic certification framework, but ordered a series of specific directives including the promulgation of two administrative rules, to be submitted as peremptory rules to the Joint Committee on Administrative Rules ("JCAR") under 5 ILCS/5-125. On August 25, 2000, ISBE submitted its Standards for Certification in Special Education to the parties as a final certification proposal subject to the Paragraph 29(d) review. On September 12, 2000, this court affirmed the Monitor's June 22, 2000, Decision, rejecting appeals from both the ISBE and the plaintiffs.

In compliance with the court's September 12, 2000, order, the ISBE filed two rules that became immediately effective through the state peremptory rulemaking process. First, the ISBE's October 12, 2000, peremptory rule struck a phrase in Appendix C to 23 Ill. Adm. Code 25 as follows:

Individuals who receive Standard Special, Elementary and/or Secondary certificates will receive on those certificates the same endorsements they currently hold.

Holders of Standard Special Certificates may exchange them for either a Standard Special or both a Standard Elementary and Standard Secondary. If they choose the Standard Elementary and Standard Secondary Certificates, they will not be qualified to teach self-contained general education classrooms, but will receive on those certificates only the endorsements they hold. (For example, a holder of a special certificate endorsed for a particular subject area may teach only in that subject area, ~~and a holder of a certificate endorsed for serving students with a specific disability may serve only in a classroom serving such students.~~) They will have the option of adding onto the elementary and secondary certificates any other endorsements for which they qualify.

Second, the ISBE's October 26, 2000, peremptory rule adopted the Standards for Certification in Special Education.

On January 9, 2001, JCAR suspended the October 26, 2000, rule on the Standards for up to 180 days. At the court's request, the parties submitted briefs regarding the court's authority to issue the standards in spite of JCAR's suspension. Over the past several weeks, the court, the Monitor, and the parties have had a series of settlement conferences to discuss these matters, including one which, at the request of the ISBE and with the consent of all parties, involved four members of the Illinois General Assembly. On February 21, 2001, JCAR suspended for up to 180 days the peremptory rule amending Appendix C to 23 Ill.Adm.Code 25.

In light of the above facts, it is hereby ordered:

1. ISBE shall strike the following phrase from Appendix C to 23 Ill.Adm.Code 25: “. . . and a holder of a certificate endorsed for serving students with a specific disability may serve only in a classroom serving such students.” The amended paragraph will then be implemented as follows:

Holders of Standard Special Certificates may exchange them for either a Standard Special or both a Standard Elementary and Standard Secondary. If they choose the Standard Elementary and Standard Secondary Certificates, they will not be qualified to teach self-contained general education classrooms, but will receive on those certificates only the endorsements they hold. (For example, a holder of a special certificate endorsed for a particular subject area may teach only in that subject area). They will have the option of adding onto the elementary and secondary certificates any other endorsements for which they qualify.
2. The ISBE shall implement the Standards for Certification in Special Education that it filed as peremptory rules to JCAR on October 26, 2000.
3. This court reserves ruling on ISBE's draft rules for implementation of the Standards for Certification in Special Education in light of the ongoing negotiations by the parties regarding the development of those and other rules that may be necessary to comply with the court's February 19, 1998, Order.

ENTER: February 27, 2001

Robert W. Gettleman
United States District Judge